

#7

PATENTS
CF-46

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT APPLICATION

Applicant : Andrew C. Gilbert
Application No. : 10/042,371
Confirmation No. : 6761
Filed : December 27, 2001
For : SYSTEMS AND METHODS FOR CREATING AND
TRADING DYNAMIC SECURITIES
Group Art Unit : 2164

FAX RECEIVED

OCT 27 2002

PETITIONS OFFICE

New York, New York 10020
October 16, 2002Office of Petitions
Hon. Commissioner for Patents
P.O. Box 2327
Arlington, Virginia 22202REPLY TO DENIAL OF PETITION FOR FILING WHEN AN
INVENTOR'S LEGAL REPRESENTATIVE REFUSES TO SIGN
PURSUANT TO 37 C.F.R. § 1.47

Applicant filed a Petition under 37 C.F.R.
§ 1.47(b) in the above-identified patent application on
July 15, 2002. The Petition was denied based on the
following reasons:

1. Proof of Refusal to Sign the Oath or
Declaration: The denial of the Petition stated that the
applicant failed to show that the legal representative of
Andrew Gilbert refused to sign the declaration after
having been presented with the application papers.

2. An Acceptable Oath or Declaration: The
denial of the Petition stated that title or position of

the officer of the company signing must also be stated on the 1.47(b) declaration if the officer is signing on behalf of the corporation.

3. Proof of Proprietary Interest: The denial of the Petition stated that the excerpt of the contract provided in the petition as filed was insufficient to establish proprietary interest in this application.

Pursuant to a telephone conference between the undersigned and Petitions Attorney, Ms. Charlena M. Grant, on October 16, 2002, Applicant replies to the Denial to the Petition as follows:

Applicant's Reply to 1. Applicant encloses, per the Petition Attorney's request, a copy of the most recent letter sent to the legal representative of the deceased inventor for the above-identified cases. The letter unequivocally confirms that a copy of the above-identified patent application was provided to the legal representative. This ground for denial of the petition is respectfully traversed.

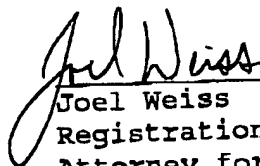
Applicant's Reply to 2. Applicant respectfully submits a new declaration with the signature of Mr. Howard W. Lutnick, which identifies Mr. Lutnick as the Chairman of the Board, Chief Executive Officer, and President, of eSpeed, Inc. This ground for denial of the petition is respectfully traversed.

Applicant's Reply to 3. The Petitions Attorney indicated in the above-described telephone conference that applicant may traverse this ground for denial by providing the Petitions Attorney with the application number of a patent application that had been filed by the applicant and assigned to eSpeed, Inc. Applicants respectfully state that Mr. Andrew C. Gilbert was a named

inventor on United States Patent Application No. 09/745,651, filed on December 22, 2000, and that Mr. Gilbert assigned this patent application to eSpeed, Inc., on August 14, 2001. The Assignment was recorded on August 20, 2001 at Reel 012092, Frame 0406 on August 20, 2001.

Should the legal representative subsequently execute the Declaration And Power Of Attorney, her executed Declaration And Power Of Attorney will be forwarded to the U.S. Patent and Trademark Office.

Respectfully submitted,



Joel Weiss
Registration No. 44,398
Attorney for Applicant
FISH & NEAVE
Customer No. 1473
1251 Avenue of the Americas
New York, New York 10020-1105
(212) 596-9000

CF-46

DECLARATION AND POWER OF ATTORNEY

I, Andrew C. Gilbert (deceased), declare that I am a citizen of the United States, residing and having a post office address at 5 Scarlet Oak Road, Califon, New Jersey, 07830;

that I verily believe myself to be the original, first, and sole inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled:

SYSTEMS AND METHODS FOR CREATING
AND TRADING DYNAMIC SECURITIES

FAX RECEIVED

OCT 27 2002

PETITIONS OFFICE

the specification of which

☐ is attached hereto

☒ was filed on December 27, 2001

as Application No. 10/042,371

that I have reviewed and do understand the content of said specification, including the claims, and acknowledge my duty to disclose to the United States Patent and Trademark Office information known by me to be material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56;

that I do not know and do not believe that this invention or discovery was ever known or used in the United States of America before my invention or discovery thereof, or patented or described in any printed publication in any country before my invention or discovery thereof, or more than one year prior to this application; or in public use or

- 2 -

on sale in the United States of America more than one year prior to this application; that this invention or discovery has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to this application; and that no application for patent or inventor's certificate on this invention or discovery has been filed in any country foreign to the United States of America by me or my legal representatives or assigns;

and I hereby appoint Laurence S. Rogers, Esq., Reg. No. 28,465, Jeffrey H. Ingerman, Esq., Reg. No. 31,069, and Joel Weiss, Esq., Reg. No. 44,398, my attorneys, with power of substitution, and with power of appointment of associate attorneys and agents, and of revocation of their powers, to prosecute this application and any divisions, continuations in whole or in part, renewals and reissues of the same, and to transact all business in the Patent and Trademark Office connected therewith;

and I request that communications be sent to:

Joel Weiss
Fish & Neave
1251 Avenue of the Americas
New York, New York 10020-1104

and that telephone calls be directed to:

Joel Weiss
(212) 596-9000.

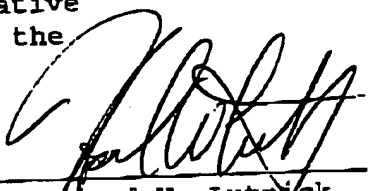
- 3 -

Wherefore, I pray that Letters Patent be granted to me for the invention or discovery described and claimed in the attached specification and claims, and I hereby subscribe my name to the foregoing specification and claims, and declaration.

I declare, further, that I understand the English language and that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and, further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Full name of inventor Andrew C. Gilbert (deceased)

Signed on behalf of the deceased by a representative of the company to which the inventor has agreed in writing to assign the invention pursuant to 37 C.F.R. § 1.47(b)


Howard W. Lutnick
Chairman of the Board
Chief Executive Officer
President
eSpeed, Inc.

October 18, 2002
Date

Deceased inventor's last known residence 5 Scarlet Oak Road, Califon, New Jersey 07830
Deceased inventor's citizenship USA
Deceased inventor's last known post office address 5 Scarlet Oak Road, Califon, New Jersey 07830